

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,) Docket No. 3:10CR463
Plaintiffs,) Toledo, Ohio
v.) December 3, 2012
BRANDON M. ROBINSON,) SENTENCING
Defendants.)

TRANSCRIPT OF SENTENCING
BEFORE THE HONORABLE JACK ZOUEARY
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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Proceedings recorded by mechanical stenography, transcript produced by notereading.

1 THE COURT: Please be seated everyone. Good
2 afternoon. We're here on case number 10CR463-01, United
3 States versus Brandon Robinson. We're here for a
4 sentencing. The defendant is present in court along with
5 his counsel Andy Hart.

6 On behalf of the government we have AUSA James
7 Maroney, and with him Jake Hardy. And we have, from
8 pretrial/probation Shawna Sizemoore. As I indicated, this
9 matter is here for a sentencing. The defendant is charged
10 in an indictment filed in November of 2010. There was a
11 guilty plea with a plea agreement in July of this year,
12 2012. Pursuant to that plea agreement, the defendant pled
13 guilty to Count 1, sex trafficking of a minor, and to be
14 dismissed at the end of this hearing will be Count 2,
15 transportation of a minor. Presentence report has been
16 prepared and shared. It is dated October 10, 2012, amended
17 October 16, with a final revision date of November 20.

18 The face sheet reveals that Count 1, sex
19 trafficking of a minor, carries with it a penalty as
20 follows, a mandatory minimum of at least ten years up to
21 life, a \$250,000 fine and at least five years and up to
22 life of supervised release. I have reviewed the
23 presentence report and discussed briefly with counsel prior
24 to taking the bench and have reviewed the government's
25 sentencing memorandum. And that sentencing memorandum is

1 reflected on our docket as document number 59. Pursuant to
2 that sentencing memorandum, and I think we will take care
3 of this next, the government is moving for a three level
4 departure under 5K1.1. And as requested, a side bar for
5 The Court, and I would invite then counsel to come up for
6 side bar on that motion at this time.

7 (A side bar conference was had on the
8 record.)

9 MR. MORONEY: Your Honor, we've moved in our --
10 in our sentencing memo for a level three reduction. The
11 plea agreement said up to four, we think that the three
12 levels is fair. The defendant and the agents, Special
13 Agent Hardy and task force officer Swartz sat down before a
14 proffer, and as we've assessed what's been provided, I
15 think of significance is the agreement to participate while
16 incarcerated in the behavioral analysis unit ongoing study
17 of prostitution and pimp activities, which has an
18 immediate, I believe, practical impact in terms of the
19 Innocence Lost task forces and the information that gets
20 put out to the field by BAU for dealing with these cases
21 and dealing with these people. So that certainly is very
22 significant. We're also looking at a particular individual
23 who was on community in Florida. In fact, was mentioned in
24 the Anniesha Whitt case as the first very violent pimp who
25 remains a person of strong interest in terms of the future

1 kids, and this defendant provided us information about the
2 Fat Daddy or Mr. Lipsey, L-I-P-S-E-Y. So I think for those
3 reasons, three levels is -- is fair. And we'd ask you to
4 depart in that level.

5 THE COURT: Was the information he provided you
6 truthful, complete and reliable, all three?

7 MR. MORONEY: Yes.

8 THE COURT: And did you find the information
9 useful?

10 MR. MORONEY: We expect that it will be, Judge,
11 yes.

12 THE COURT: And was his assistance to you timely?

13 MR. MORONEY: I can't conceive other than --

14 MR. HART: If I -- I mean, if I can speak to
15 that, Your Honor, courtroom calls Mr. Robinson had about a
16 12 or 15 month hiatus where his medical needs were being
17 taken care of at the medical center. I think that would
18 probably offer a greater explanation as to why the
19 cooperation did not take earlier rather than later. Almost
20 immediately upon returning after receiving the medical
21 treatment, he did execute the plea agreement and agreed to
22 cooperate.

23 THE COURT: Okay. The Court will grant the
24 government's motion for three levels.

25 MR. MORONEY: Oh, Judge. Can I raise one issue,

1 and I apologize I didn't bring this up before. There
2 were -- there were two firearms seized in the search. I
3 meant to ask you if we can -- if you would agree with an
4 order just to destroy those?

5 MR. HART: That would be fine. I mean, I'll talk
6 to Brandon, but I don't see why that would be a problem.

7 THE COURT: If I forget, remind me.

8 (Side bar concluded.)

9 THE COURT: I'm back on the full record. The
10 Court grants the government's motion, and next we'll
11 confirm with counsel the guideline range in this case. The
12 presentence report indicates that there are no unresolved
13 objections. And again, having talked closely with counsel
14 for both sides prior to taking the bench, and I'm referring
15 to pages 21 of the addendum to the presentence report as
16 well as the face sheet dated November 20. There is,
17 however, a discrepancy between the calculations and the
18 plea agreement. And The Court will follow the plea
19 agreement in this case, and will now confirm with counsel
20 that we're dealing with an offense level of 26. That
21 includes the 5K1 motion and includes acceptance of
22 responsibility, bringing us down to a -- an offense level
23 26, which reflects also a criminal history category of
24 three. I did note that the presentence report calculated
25 three points, not four points. Three points would be a

1 criminal history category two. It reflects four points
2 which would be a criminal history category three. And when
3 you add up the points in paragraphs 36, 37, 38, 39 and 40,
4 there are three points. So paragraph 41 is amended to
5 reflect a criminal history score of three. However, the
6 offense in paragraph 36, carrying a concealed weapon under
7 the appropriate guideline 4(A)1.2 (j) allows court to
8 consider an expunged conviction, which if not counted, may
9 be considered under 4(A)1.3. And 4(A)1.3 indicates that an
10 upward departure can be granted if reliable information
11 indicates that the defendant's criminal history category
12 substantially underrepresents the seriousness of the
13 defendant's criminal history, or the likelihood that the
14 defendant will commit other crimes. An upward departure
15 may be warranted. The Court is, therefore, going to make
16 two alternative rulings, first, that upward departure under
17 that guideline is appropriate in this case for the reasons
18 set forth in subsections (A)1. The Court would also
19 indicate for the record that for those factors, as well as
20 others that I will announce later, that a variance would be
21 appropriate into that same guideline range of 78 to 97
22 months. Therefore, under either a departure or a variance
23 standard, I am confirming that the guideline range in this
24 case is 78 to 97 months.

25 With that, let me confirm with counsel for both

1 sides that you have reviewed the report, that I have
2 correctly summarized the maximum penalties that the
3 defendant is facing, and that I have also correctly
4 identified the guideline range in this case.

5 MR. MORONEY: Your Honor, we are satisfied with
6 the computations, have no objections to what you've just
7 stated.

8 THE COURT: Thank you.

9 MR. HART: Your Honor, with respect to the first
10 part of The Court's finding that a departure would be
11 justified in increasing the criminal history category from
12 a two to a three, we will, at this point in time, object to
13 the departure in support of that. Obviously we'll be
14 discussing any factual findings The Court makes with
15 respect to a variance in support of that, but we would
16 object to The Court's finding that there is a sufficient
17 basis for the increase from what we believe should be a
18 category two at this time.

19 THE COURT: Thank you. Let me confirm with the
20 defendant, Mr. Robinson, that you've had an opportunity to
21 review the presentence report and discuss it with your
22 lawyer; is that correct?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Very good. Report will be filed,
25 made part of the record in this case under seal and

1 available as necessary. I also want the record to reflect
2 that I have received and reviewed a number of letters on
3 the defendant's behalf. I will not identify each of them
4 other than to indicate that they are from family and
5 friends and appreciate the time that those folks have taken
6 to give me more information about the defendant. And I
7 think with that we can save further comment for later in
8 the discussion.

9 Having identified all the materials, I think I'm
10 prepared now, unless anyone has any additional materials,
11 to turn the floor over to defense counsel to argue for an
12 appropriate sentence on its client's behalf.

13 MR. HART: Thank you, Your Honor. Your Honor, as
14 The Court notes, having administered a number of these
15 types of cases, the conduct in these types of cases runs
16 very wide range of relevant conduct. And, you know, I have
17 had, whether or not my anecdotal comments are worth
18 anything, some experience in different types of similar
19 cases, and I think that the offense conduct in this case is
20 very important. I think it's something that The Court
21 needs to assess and base the sentence on. That having been
22 said, I do think that it is very arguably and very
23 reasonably a basis for The Court to depart from the
24 guideline range based on the offense conduct in this case.

25 Contrary to the majority of cases that come

1 before this court, along these same lines, it's my
2 understanding, and that there's never been any credible
3 evidence to support that Mr. Robinson engaged in any of
4 these activities with force or threat of force. I've
5 carefully reviewed the government's synopsis of how victim
6 in this case came to be involved with Mr. Robinson and
7 Ms. Whitt. There doesn't appear to be any coercion in that
8 regard. And in fact, during the I think approximately two
9 week period of time that the victim was involved with
10 Mr. Robinson and Ms. Whitt, there doesn't appear to be any
11 indication that she remained there under force or threat of
12 force.

13 Now, certainly in an ordinary sense The Court
14 doesn't give credit for somebody for not engaging in force
15 or threat of force type behavior. But the guidelines in
16 this case do contemplate these types of offenses, and these
17 types of offenses do typically involve that sort of
18 conduct. And I think it's very important and relevant to
19 note that the way in which the victim became involved, the
20 way in which she remained involved was characteristically
21 different. I guess the better way of describing it would
22 be that it would be effectively the minimal amount of
23 conduct necessary to even substantiate the offense itself.
24 There doesn't appear to be -- with respect to that, any
25 aggravating circumstances that I think The Court would rely

1 on in imposing even a guideline sentence, or more
2 importantly a higher than guideline sentence. With respect
3 to getting into more of minutia of the actual offense
4 conduct. There's a fine line between Mr. Robinson
5 acknowledging responsibility for his conduct and trying to
6 assess his behavior relative to the behavior of other
7 persons in this case. I'd be remiss if I didn't attempt to
8 draw some comparison to this court's findings and the
9 sentence imposed upon Ms. Whitt. Now, obviously Ms. Whitt
10 pled to a different count, but the offense conduct itself
11 still should be assessed similarly to Mr. Robinson, and I
12 think that her sentence should serve as a reference point
13 to this court's consideration of whether a variance is
14 appropriate for Brandon. And obviously, Ms. Whitt had
15 somewhat longer history of involvement in this type of --
16 these type of activities prior to her even meeting
17 Mr. Robinson.

18 There's a document in history that she had with
19 somebody that has absolutely no connection to Mr. Robinson
20 that obviously was a very bad episode in Ms. Whitt's life
21 that she had to endure with. The offense conduct itself
22 does appear to involve Ms. Whitt's participation in some of
23 the organization of what was going on with the victim in
24 this case.

25 Now, certainly Brandon was involved, Brandon was

1 aware of what was going on, and I think very importantly,
2 particularly over the past couple of years Brandon's had
3 the opportunity to really assess what was occurring during
4 this time period, which was that he took advantage of an
5 opportunity, and that opportunity involved the
6 victimization of a young girl. He hasn't made any excuses
7 for that. He hasn't attempted to minimize that. But I
8 think that it's important for The Court to try to reconcile
9 what was relatively a low sentence for Ms. Whitt and her
10 conduct which, in my approximation, does come very similar
11 to the same conduct that Mr. Robinson finds himself before
12 The Court.

13 THE COURT: Really? You don't think he was the
14 man in charge?

15 MR. HART: Your Honor, I think that if we're
16 trying to use some sort of an abstract diagram to see who
17 was in charge and who wasn't, it was much more of a linear
18 horizontal structure rather than a vertical structure.

19 THE COURT: Who collected the money decided who
20 got what?

21 MR. HART: Your Honor, and I think that this
22 would be somewhat of a debate, I think that what was
23 occurring was that Ms. Whitt was with the victim.
24 Ms. Whitt collected the money, and then Mr. Robinson,
25 Ms. Whitt and the victim were basically all using the money

1 contemporaneously. I'm not going to try to purport to The
2 Court that there was an even distribution or get into the
3 mechanics of it, but I don't think that this was the
4 typical scenario in which all of the proceeds basically
5 were taken and delivered and given to Mr. Robinson from
6 these activities. And I think that what I'm submitting to
7 The Court is probably focused less on the financial aspect
8 of it as opposed to who was actually managing the actual
9 activities of the prostitution.

10 Typically what you would find in these types of
11 cases is that there is a great degree of physical control,
12 manipulations, threats and things like that, which the
13 person who's the so called person in charge is exerting to
14 all the people below them to compel them to remain in these
15 activities. Now, I'm submitting to The Court that at least
16 the way that that part of this dynamic was structured is
17 categorically different than the majority of cases that
18 have come before The Court. And so I do think that there
19 is a legitimate basis to use Ms. Whitt's conduct and her
20 sentence as a reference point. And as I said it's a fine,
21 you know, distinction to be made between accepting
22 responsibility for his participation in the affairs with
23 trying to assess his culpability with the culpability of
24 the group of people that were actually all involved within
25 this offense.

1 With that being said, Your Honor, there is some
2 indication that Mr. Robinson had some contacts with these
3 types of activities prior to the two week period of time
4 that we're dealing with the alleged victim. But I think
5 what's notable is that he was arrested, or at least he was
6 stopped by The State patrol I believe in June of I think it
7 was 2009, and that the arrest on this case wasn't affected
8 until November of 2010. And there's no indication between
9 June of 2009 and November of 2010 that there was a
10 continuation of these types of activities.

11 THE COURT: Is that surprising to you?

12 MR. HART: Well, I'm offering it to The Court
13 from the point that what you typically find in these types
14 of cases is people who are the top of the hierarchy, people
15 who are controlling, people who routinely and repeatedly
16 engage in these types of activities routinely engage in
17 these types of activities. And there's no indication after
18 the Ohio State Patrol affected the traffic stop that
19 Mr. Robinson continued to engage in any of these
20 activities. There's no indication that he was even an
21 idea, that he was even the target of a federal
22 investigation for almost a year-and-a-half after the
23 traffic stop was affected. And once again, you know,
24 there's -- it's logically difficult to try to offer
25 somebody credit for not engaging in these types of affairs,

1 but I think that his decision in the absence of any
2 indication on the record that he did continue to engage in
3 these affairs is a relative point, particularly if The
4 Court's trying to assess the need to protect the public,
5 whether or not there has been sufficient rehabilitation and
6 what not.

7 THE COURT: Do you think the fact that the
8 federal agents acquired a search warrant in July of 2009
9 had any impact perhaps on how he chose to conduct himself?

10 MR. HART: Once again, Your Honor, you can accept
11 anecdotal comments for what they're worth, but it's my
12 experience that no, that does not generally have an impact
13 on somebody who is, in fact, predisposed to continuing to
14 engage in criminal activity. Your Honor, Mr. Robinson
15 obviously from the presentence report has normal stable
16 family. He's an articulate person. He's an intelligent
17 person. He and I have had the opportunity to discuss at
18 some length what I anticipated The Court's question would
19 be, which is to offer some sort of explanation as to why
20 since approximately the time he was 18 years of age up
21 until his arrest for this he had two or three contacts with
22 The Courts, because his history doesn't present the typical
23 type of disadvantages that you associate with somebody who
24 had the contacts with The Courts. And he's going to try to
25 address that on a more personal level when he has a

1 conversation with The Court shortly.

2 But I think that if The Court is really trying to
3 assess today what the appropriate sentence is, the question
4 before The Court is what period of time is necessary in
5 order to impose an adequate punishment for Mr. Robinson.
6 But at the same time offering the appropriate deterrence
7 not just for this conduct but for any type of criminal
8 conduct. And he's been in custody for slightly over two
9 years I believe at this point. His pretrial detention, in
10 my opinion, has been much more severe than the average
11 period of pretrial detention in that when he was originally
12 brought in, he had a fairly significant knee condition.
13 The knee condition deteriorated. It then deteriorated to
14 such an extent that his good knee deteriorated as well.
15 And it was only at some period of time that the government
16 actually intervened and helped provide him with the medical
17 treatment that he required. But during that period of time
18 he was unable to engage in conversations, he was unable to
19 function. He was going through an extraordinary amount of
20 pain. I think coupled with that experience as well as the
21 stress and the anxiety and everything has had a dramatic
22 impact on him that even a two year period of pretrial
23 detention does not ordinarily have on another person. I
24 think that, you know, this has had a huge impact on his
25 perspective. I don't think that he has any intention of

1 doing anything other than trying to allow some of his
2 abilities to guide him through the rest of his life. With
3 that, Your Honor, I'll defer to him. He can hopefully
4 address on a more personal level and answer any questions
5 that The Court has.

6 THE COURT: Thank you. Mr. Robinson, the floor
7 is yours. Anything you wish to add to what your lawyer has
8 just said?

9 THE DEFENDANT: No, Your Honor.

10 THE COURT: Oh, surely you have something to say.
11 I've had two years to give this some thought, and I have to
12 believe that you have something you'd like me to know
13 before I take on the very difficult task of determining
14 what your sentence should be.

15 THE DEFENDANT: Well, I thought you would have
16 some questions for me, but that --

17 THE COURT: I can ask you some questions, but I'm
18 going to give you the opportunity to make an opening
19 statement, if you will. If there's something you want to
20 make sure I know, this is the time to do it.

21 THE DEFENDANT: Well, basically everything that
22 Mr. Hart has informed The Court is truly true. During this
23 period of incarceration has truly endured a lot, and in the
24 midst of this situation, this incarceration, I believe I
25 know it has completely changed me.

1 THE COURT: Tell me how so. What have you
2 learned during this two year period?

3 THE DEFENDANT: This two year period through all
4 the pain and agony and struggles has mentally, physically,
5 emotionally has humbled me and matured me to another level.
6 I understand more about the law and the penalty of stupid
7 judgment that I was making.

8 THE COURT: So that tells me that you knew prior
9 to getting caught that what you were doing was wrong, what
10 you didn't know was that you would be facing this much
11 time.

12 THE DEFENDANT: Yes, Your Honor. And I --

13 THE COURT: Did you, during this two year period,
14 give any thought to how awful this crime was?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Do you understand why the penalties
17 for this crime are severe is because the crime is severe?

18 THE DEFENDANT: Yes, Your Honor. I understand
19 that.

20 THE COURT: How do I, Mr. Robinson, explain these
21 letters I have received from people, some of whom you've
22 known your entire -- or for a very long period of time, and
23 describe you as a good person. With the record I have in
24 front of me that shows the kind of conduct you've engaged
25 in over a number of years, conduct which is, I don't know

1 what word to use, you have firearms on a regular basis, you
2 are engaged in this awful industry of child and adult
3 prostitution, who are these two people? You're a Jekyll
4 and Hyde.

5 THE DEFENDANT: I wouldn't say all that, sir.
6 But each situation that I -- that I went through during my
7 past I can't necessarily say was justified, but it was a
8 reason behind it. The first CCW I received was because I
9 had purchased a gun to protect myself from my stepfather
10 who had threatened to kill me and my family. I know that
11 now wasn't the proper direction. I should have went and
12 trying to seek protection, but I was young, and as I said
13 before, I was stupid, made very unintelligent decisions on
14 how to approach situations.

15 The second one occurred as me trying to pick up a
16 few extra dollars transporting a gun, another stupid
17 decision, but at the time I was trying to purchase my liver
18 medicine that cost \$108 at the time. And my income wasn't
19 coming in and my family was struggling. So when the
20 opportunity presented itself, I thought it was a quick
21 dollar and it would help me resolve the solution, the
22 problem, resolve the problem. Excuse me. And once again
23 it was a dumb stupid decision on my behalf that I
24 approached, once again, completely wrong. And this
25 situation I'm currently in now --

1 THE COURT: Yes, tell me about that.

2 THE DEFENDANT: Well, I was engaged in a
3 relationship with my co-defendant, Ms. Whitt, who had
4 previous experience, contact with the industry. And I was
5 introduced to it through her. And to help her out at first
6 I was doing it and then, you know, the love that I had for
7 her led me to stay involved in it. And then I started
8 benefiting from it to help me, you know, do the things I
9 desired to do and continue to pay for medicine. But that
10 does not justify it, but me not thinking, once again,
11 making unconscious, unwise decisions and socializing with
12 individuals that are involved in criminal activity was a
13 big reason to many of the charges that I have. And as I
14 said before, this situation had humbled me and mentally
15 matured me. Now I know that it's not necessary always to
16 factor up a individual doing a crime that can cause you to
17 be a criminal. It's those that you hang out with and
18 socialize that can bring you around the environment of
19 criminal activities that you may be attempted or
20 manipulated to engage in. That is also a downfall. So as
21 I sit here thankful for the situation because it has truly
22 opened my eyes and humbled me and matured me. I know now
23 that I have to be cautious and understand that just because
24 I'm in a certain situation or in need of certain amount of
25 money, that I cannot, should not and will not engage in

1 criminal activities to allow that to be the solution.

2 THE COURT: Some of what you say, Mr. Robinson,
3 may be true, but you are tip toeing around, dancing around
4 a very important fact. Paragraph 10 of the PSR, in early
5 June 2009 defendant met C.B., this is the minor, who was
6 age 14. At the time C.B. had run away from a foster home
7 some three weeks prior to meeting you, the defendant. You
8 gave her your phone number, and some two days later she
9 phoned you at which time you picked her up. You asked C.B.
10 to prostitute for you and took her to Anniesha Whitt's
11 address where you introduced her to Anniesha whom you
12 identified as one of your prostitutes. C.B. agreed to
13 prostitute, you provided her with clothing to wear while
14 prostituting, instructed her what fees to charge for
15 various sex acts and told her she would be prostituting at
16 truck stops. You provided her with a cell phone to
17 communicate with him and/or Whitt. She told you that she
18 was 17 and provided you with a false name and a false date
19 of birth. If she was ever stopped or arrested by law
20 enforcement, you provided her with that information. I'm
21 just going to read that one paragraph because I think
22 that's important because this is not just a case of someone
23 who was greedy, which I think you've acknowledged that you
24 were. You called it quick dollar or something like that,
25 some call it easy money. You describe yourself as having

1 made dumb or stupid mistakes, I would add another adjective
2 to all of that, dangerous, perhaps. You said you've
3 learned to be cautious. What's there to be cautious about,
4 Mr. Robinson? Be righteous. You had face-to-face contact
5 with a 14 year old girl that you had engaged in
6 prostitution for you, for money. That's what you did. And
7 it's awful.

8 Let's hear from the government. There's some
9 points raised I'd like you to address, the fact that no
10 force or threat of force was used, that no aggravating
11 factors exist here, that he was not in charge, that I'm not
12 sure whether defendant or counsel are claiming Whitt was in
13 charge, but there certainly was more or rather less
14 involvement by defendant than one might think. He calls
15 Whitt the reference point for sentencing in this case and
16 also focuses on the time of the last two years where
17 defendant has been incarcerated and has apparently seen the
18 error of his ways.

19 MR. MORONEY: Thank you, Your Honor. Your Honor,
20 this court has had the benefit of recently sentencing
21 Anniesha Whitt, and it struck me in terms of the -- first
22 of all, let me say that the government did not allege
23 force, fraud and coercion in charging this particular case.
24 And that is simply a fact. It doesn't mean that the case
25 isn't permeated with undue influence which takes on the

1 aura of coercion in terms of the facts of the case. And it
2 struck me in thinking about that, that a statement that
3 Anniesha Whitt made, and it's in paragraph 25 of her
4 revised plea agreement. She says I was prostituting for
5 Robinson in 2009. He brought C.B., the 14 year old, to my
6 place and forced me to take her in by physically abusing me
7 when I didn't accept him bringing her over. He grabbed me
8 around my neck and lifted me off my feet and choked me when
9 I told him I didn't want him bringing other girls,
10 prostitutes, to my home with my kids. I don't like being
11 beat up so after that I did what he wanted. It -- it's
12 interesting that when you look what the victim has said in
13 terms of the false birth date, the Sarah Jackson identity,
14 lying to the police, you know, all of those things speak to
15 the influence that Mr. Robinson had over this person who I
16 don't think that I could say it better than The Court did,
17 you're dropping off a 14 year old at a truck stop, not to
18 be overly dramatic about it, Your Honor, there are women
19 missing from truck stops across Northern Ohio. You're
20 dropping a 14 year old off at a truck stop and having her
21 go cab to cab and using their C.B. radios to arrange the
22 next date. And you're dropping them off and you're waiting
23 for a cell phone call to come back at 2:30 or 3:00 and pick
24 them up. You're not even staying on site to be sure that
25 they're, if you can be safe in that kind of a situation.

1 So Your Honor, I think that just speaks volumes. The
2 conduct itself is what drives the sentence in this case.
3 That's why we ask for a sentence at the high end of what we
4 feel is the appropriate 78 to 97 month sentencing range. A
5 couple things about that, though, this defendant should
6 really consider that he's received an enormous break in the
7 handling of this case. Both counts in this case had
8 mandatory minimum ten years, maximum life, and arguably
9 certainly the government, because there's a factual element
10 separate in Count 2, that is the actual transportation
11 across state lines, that those at least mandatory minimums
12 should have stacked this case proceeded to trial. So that
13 you're really talking about a 20 year sentence to life.
14 And there are enormous -- there are a number of breaks that
15 were extended to this defendant, including affording him a
16 5K departure, including sticking with the plea agreement as
17 opposed to the two additional levels identified by
18 probation officer Sizemoore. So to be in that range is a
19 tremendous break for this defendant.

20 I was struck too by several things that he said
21 in terms of his acceptance of responsibility. In paragraph
22 19 Mr. Robinson acknowledged he transported Anniesha to
23 Detroit for purposes of prostitution. He acknowledged that
24 during this time, with the assistance of Anniesha, other
25 girls agreed to work for him in the same manner. He

1 acknowledged that he traveled with girls out of state for
2 prostitution, and that it was his primary source of income
3 up until his instant offense arrest date. We simply don't
4 know, Your Honor. And I would agree with highlighting the
5 fact that the highway patrol stop is June of '09 and
6 Special Agent Hardy and the task force execute a search
7 warrant in July of 2009. We simply don't know from that
8 point until the federal case was approved and brought
9 exactly what activities he was involved in, but I suspect
10 we have a pretty good idea.

11 The -- he says in paragraph 20 he transported the
12 women over state lines into Michigan for acts of
13 prostitution. He also readily acknowledged that the girls
14 game him the money they earned from their prostitution
15 activities.

16 In paragraph 21 he indicated he was somewhat glad
17 he was caught because the situation could have gotten a lot
18 worse, which I think is a remarkable statement to make.
19 Your Honor, again, as we said in our sentencing memorandum,
20 we think that a sentence at the 78 to 97 range is
21 appropriate and it should be at the high end of that range
22 for all the reasons that we've talked about. Thank you.

23 THE COURT: Any last words?

24 MR. HART: Just to clarify, and I'm not sure that
25 it's a necessary point to debate, but it's my understanding

1 that Mr. Robinson was never accused of having been involved
2 in these activities without Ms. Whitt, and I believe
3 Ms. Whitt confirmed that after the highway state patrol
4 stop, she didn't have any contact with him. So I would
5 just resubmit the point to The Court that it does appear to
6 have been a cessation of activity in that regard.

7 THE COURT: Thank you. Mr. Robinson, my sentence
8 in this case is guided by 2005 U.S. Supreme Court decision
9 in Booker and later cases from our Supreme Court as well as
10 cases from our circuit court. And all of these cases
11 require me to consider the guideline range, which we have
12 just discussed and confirmed at 78 to 97 months.

13 I'm also to make an individualized assessment of
14 you based on the facts presented in your case, a process
15 that involved an exercise in judgment. And you may recall
16 at the time of your guilty plea, we discussed a statute,
17 which I told you we would talk about today. That statute
18 we call 3553(a). And that statute lists factors for me to
19 take into account and to arrive at a sentence that is
20 sufficient but not greater than necessary, balancing the
21 factors from your case and the statute to arrive at a just
22 punishment, and that's what I will do next, address those
23 factors and how I see them applying to your case.

24 First, factor for me to consider, the nature of
25 the crime. It is set forth in some detail and we've

1 discussed it a bit here in the presentence report and
2 paragraphs 7 through 13 beginning with the stop of the
3 vehicle you were driving with both Anniesha and C.B. in the
4 car. A search of the vehicles found items which suggested
5 prostitution. Both Ms. Whitt and C.B. provided false names
6 during that stop. And their inconsistent answers caused
7 further questions to take place. They were wearing
8 clothing indicative of prostitution, and C.B. acknowledged
9 to the officer she was a juvenile and prostituting at your
10 direction at a truck stop in Beaver Damn, Ohio.

11 I earlier referenced paragraph ten, and so I
12 won't repeat it here, and I believe the government
13 indicated in paragraph 11 that you had driven C.B. to truck
14 stops to engage in prostitution, and Anniesha Whitt on the
15 first few occasions also was involved with C.B.,
16 accompanying her during those acts. At those truck stops,
17 C.B. would travel from truck cab to truck cab, use the C.B.
18 radios of trucker customers to arrange for acts of
19 prostitution at your direction. C.B. would add the
20 cellular phone number of the truckers to the memory of the
21 cell phone provided to her by you. After several hours,
22 four to five hours, Whitt would call you to arrange for a
23 pick up either at the truck stop or nearby gas station.
24 Before each trip to a truck stop, you would provide them
25 with condoms and lubricant to use with customers. After

1 picking up the women, they would give you the proceeds of
2 the prostitution acts. While C.B. was staying with you and
3 Ms. Whitt, you provided her with clothing, alcohol,
4 marijuana and other hygiene items. C.B. believed she made
5 some \$7,000 during the 10 to 11 days that she prostituted
6 for you.

7 That is, in short verse, what brings us here
8 today. I'm also to take a look at your character and
9 background, and would note before I move on that you did
10 accept responsibility and were given a three-point
11 reduction for that. That's outlined in paragraph 17
12 through 21, and you did readily admit that you acted as a
13 pimp for both Anniesha and C.B. in July of 2009. You
14 acknowledge that you transported Anniesha to Detroit for
15 prostitution, and at some point you and she apparently went
16 your separate ways and then resumed a relationship. At
17 some point you and Anniesha began traveling to truck stops
18 for prostitution, and you began, in your words, to branch
19 out and acquire your own girls. You also sought out girls
20 who were recommended to him by other girls or associates
21 which is how you became acquainted with C.B. You
22 acknowledge that you informed C.B. you could help her earn
23 some money through acts of prostitution. And you had
24 Ms. Whitt teach C.B. about the prostitution lifestyle and
25 how to conduct herself. You transported women over state

1 lines into Michigan, and you readily acknowledge that the
2 girls gave you the money they earned from their
3 prostitution activities. It is, Mr. Robinson, not a very
4 pretty picture of what brings us together today.

5 The presentence report also, as part of your
6 character and background, we look at your adult criminal
7 convictions, carrying a conceal weapon in 2002, firearms in
8 2005, obstructing business in 2006, drug abuse in 2009,
9 burglary in 2009, and other charges and arrests set forth
10 in paragraphs 44 and 45. One of those being another CCW,
11 carrying a concealed weapon.

12 Your personal and family data is summarized in
13 paragraphs 47 through 56. Discussing your family
14 relationship, close relationship with your mother, your
15 siblings, your biological siblings and your maternal half
16 siblings. You are not married. You do have maybe a child
17 with Anniesha, her oldest child. Apparently you believe
18 that's your biological son but that has not been confirmed.
19 You are 29 years old; is that right?

20 THE DEFENDANT: I'm 30, sir.

21 THE COURT: 30, just turned 30 a few weeks ago.
22 And at 30 years old if we look at your educational and
23 vocational skills and your work record, we see that you
24 have completed high school at the Life Skills Center
25 apparently in June of 2004, you were enrolled at Monroe

1 Community College intermittently during '05 and '06 and did
2 not complete that. And your work record, spotty at best,
3 is summarized in paragraphs 69 through 71.

4 This is what the presentence report tells me
5 about you, Mr. Robinson, the factor under the statute that
6 I am to take into account. I did acknowledge earlier and
7 want to again acknowledge the letters because I suspect
8 some of the family members and friends are in the back who
9 have written these letters, and, again, some of them talk
10 about you being a close and dear friend, full of promise,
11 found a new life in religion, cousins who have written on
12 your behalf, uncle who has written on your behalf. Talking
13 about your relationship with the family and that you are a
14 quote, unquote, great person. You're now reading The
15 Bible, that you are of a good moral character. Perhaps an
16 over exaggeration. This is almost like the Godfather who
17 is wonderful to his family but was having people murdered.
18 And so I suppose there are some people who thought the
19 Godfather was just this great guy, and then probably a
20 number of other people who thought he wasn't such a nice
21 guy, and this may be why I'm getting a tale of two cities
22 with you. You're making money from prostitution. I
23 suspect you're probably helping some family members and
24 friends with it. You're a great guy, but I cannot close an
25 eye to how you got that money and how you conducted

1 yourself. There's an indication from one family member or
2 friend that this has been a terrible trying two years in
3 this jail for you. You know what some people would say to
4 that Mr. Robinson, so what. Look at the terrible trying
5 time that C.B. and others like her face over a lifetime
6 because of what you did in this case.

7 I understand your mom has some health issues and
8 this is difficult for her. I'm sympathetic to that.
9 Mothers are special people. This is what happens when
10 someone commits a crime. It is not just you who suffers,
11 Mr. Robinson. It is those who are close to you that
12 suffer. They may not hear the cell door shut behind you,
13 but they suffer through your absence in their lives. I
14 only wish you had not been, in your words, so dumb and so
15 stupid. I only wish that you understood and appreciated,
16 which still apparently you don't, what an awful, awful
17 thing you did in this case. A young innocent girl turned
18 on to prostitution so you could make money. Your aunt,
19 your sister, you have a lot of people who love you and like
20 you and wrote nice letters on your behalf. I only wish
21 they had stepped in and intervened. I only wish that they
22 had slapped you across the face or done whatever it took to
23 startle you into an awareness of how awful this crime was.
24 But I can't turn the clock back so we have to look forward
25 into the future. I really do hope, Mr. Robinson, that some

1 of what you said here today is, in fact, true, that you do
2 realize the enormity of the error of your ways, that you do
3 realize also that you have an opportunity once you come out
4 to do something different and hopefully do something more
5 positive.

6 I also am required under the statute to make sure
7 the sentence reflects the seriousness of the crime, promote
8 respect for the law, and provide a just punishment, deter
9 you and others from crimes like this and protect the
10 public. And certainly all those factors I just listed
11 would indicate that a sentence within the guideline range,
12 some would probably say above the guideline range is
13 appropriate here.

14 To those family members who wrote and asked for
15 leniency and probation, I want you to know part of what
16 I've just discussed I hope you understand is I cannot sit
17 here and do whatever I want to do. I have guidelines to
18 follow, and the guidelines I just recited would not allow
19 me to release you, Mr. Robinson, today. That would be a
20 dereliction frankly of my duty. That would be a sentence
21 waiting to be overturned. I also want you to know that I
22 am going to include as part of my order that you be
23 provided with any appropriate training and treatment
24 because you will come out one day, you will have an
25 opportunity to do something different with your life, and I

1 hope that the system allows us to point you in the right
2 direction. But in the final analysis, just as all those
3 decisions you made up until this crime in the final
4 analysis, it rests with you. And you can point to Anniesha
5 as someone who brought you into this, but in the final
6 analysis, you could say no. You could have pointed
7 yourself in a different direction. It would be, again, as
8 if you were to blame someone who taught you how to steal
9 guns or use a gun illegally and say, well, it's their
10 fault. No, it's not their fault. Yes, maybe you had some
11 bad influence around you, but you're a smart and articulate
12 man, as your lawyer said, and you could have known and
13 should have known the difference and not put yourself in
14 the position that you now face.

15 I want to also address that I do not find,
16 Mr. Robinson, that you're some sort of a bystander in this.
17 You were involved in this, and your role is, I believe, a
18 larger role than your counsel suggested as I indicated by
19 reading from the presentence report. You were the point
20 person on this, however reluctant you want me to believe
21 you were, you still were. It went on for a period of time
22 as the presentence report indicates. So this is not a
23 situation of oops, I made a small mistake one day, please
24 excuse me, this is a repetitive mistake that went on and on
25 and on and involved innocent people. Yes, I have taken

1 into account the sentence for the co-defendant and that
2 sentencing order and my reasons are articulated. I think I
3 also here take into account other sentences for like
4 crimes. And we have had several sentences this year with
5 those involved in sex trafficking of minors. And their
6 sentences were much longer than yours, and specifically I'm
7 referring to Anthony Willoughby and Mark Fetter.

8 Let me also indicate that point which was touched
9 on by the government, you are a bit of a Houdini in the
10 sense that you have escaped today with a sentencing range
11 that is much less than what it could have been given the
12 history that's in here and given the mandatory minimums
13 that you could have faced and given the Mann Act charges
14 that you could have faced and other items addressed in the
15 presentence report. This was a heinous crime and I repeat
16 what I said earlier, some would say that a sentence within
17 the guideline range is not nearly long enough.

18 Pursuant to the Sentencing Reform Act of 1984,
19 it's the judgment of The Court, Mr. Robinson, that you be
20 sentenced to the Bureau of Prisons for a term of 96 months.
21 You will be given credit for your time served from November
22 of 2010. I'm going to put you on supervised release for a
23 period of six years. You can use that time hopefully by
24 reaching out to your probation officer to make sure that
25 you are on the straight and narrow. I'm going to wave the

1 fine in this case, finding you don't have the ability to
2 pay a fine. I'm going to order a special assessment of
3 \$100 due and payable immediately. I understand there were
4 some weapons confiscated in the search in this case.

5 MR. HART: Your Honor --

6 THE COURT: Yes.

7 MR. HART: There's no indication from
8 Mr. Robinson that he would object to the destruction of
9 those weapons.

10 THE COURT: There's no indication that?

11 MR. HART: He will not -- he does not object to
12 the destruction of those weapons.

13 THE COURT: Very good. Then that will also be
14 part of the order in this case. Pursuant to the plea
15 agreement, Count 2 will be dismissed.

16 Counsel for either side know of any reason not
17 previously made why the sentence I have just outlined
18 should not be imposed?

19 MR. HART: Your Honor, just to make sure that the
20 record's clear, we would restate the objection to The
21 Court's upward departure on the criminal history category,
22 the Court's denial of the request for variances, which I
23 think The Court did articulate very well in terms of what
24 the variances were, as well as the overall substantive
25 reasonableness of the sentence itself.

1 MR. MORONEY: We have no objection to the
2 sentence as stated, Judge.

3 THE COURT: Thank you. Let me again indicate and
4 come full circle. I did grant an upward departure based on
5 criminal history earlier for reasons stated, and some of
6 those reasons are included in the defendant's character and
7 back ground, the crime in this case and the seriousness of
8 that crime and the need to protect the public and deter
9 crimes like this. Those same reasons also apply if this
10 were a category two. I would reach up to the next level of
11 the guideline range again indicating for the record those
12 factors would apply and also referring to the background as
13 set forth in the presentence report of the history of this
14 defendant, along with the dangerousness of the prior crimes
15 and this crime as well and believe that all those factors
16 would justify a variance to the next level.

17 Have I addressed all arguments, anything that I
18 need to discuss with counsel before I deal with the
19 remaining paperwork?

20 MR. HART: No, Your Honor. We believe The Court
21 has addressed all the arguments raised.

22 MR. MORONEY: You have, Judge.

23 THE COURT: Thank you, Mr. Robinson. You were
24 handed two documents prior to the start of the hearing.
25 One was a sentencing order regarding conditions of

1 supervised release. And it details those conditions that
2 will take place once you are released from the Bureau of
3 Prisons. Did you review this with your lawyer?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Did he answer any questions you had?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: I note this document is signed by
8 both defendant and his counsel with today's date. I too am
9 signing it and it will be made part of the record in this
10 case. The other document is the acknowledgment of the
11 waiver of appeal rights. You may recall at the time I took
12 your guilty plea I indicated to you that by entering a plea
13 of guilty your appeal rights would be much more limited
14 than they otherwise would be. You understand that?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: And that, in effect, is what this
17 document confirms. And it contains your signature and your
18 lawyer and today's date; is that correct?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Very good. That too will be filed
21 and made part of the record in this case. Have you
22 discussed with your client a preference for designation?

23 MR. HART: Your Honor, I haven't, but I would ask
24 The Court to include in its judgment entry that the Bureau
25 of Prisons pays particular attention to Mr. Robinson's

1 medical needs, not simply the -- his knees, but he has a
2 number of systematic issues, auto immune hepatitis and
3 other things that have traditionally caused a number of
4 problems during his pretrial detention. And I think those
5 medical issues would require something more than what the
6 average correctional facility would offer. So at least if
7 the Bureau of Prisons could take that into account in
8 assessing where the appropriate place would be.

9 THE COURT: I will certainly do that. In fact,
10 we probably should indicate that his designation ought to
11 turn in great part on the facility that can meet his
12 medical needs. So we will make that recommendation,
13 Mr. Robinson, to the Bureau of Prisons. You need to know
14 that ultimately the decision is theirs, not mine, but we
15 will make that recommendation.

16 The presentence report does not indicate any
17 substance abuse issues, and therefore, there's no need to
18 recommend that. But I do want to recommend that this
19 defendant receive whatever job training and educational
20 opportunities they can provide you because I want to arm
21 you in a positive way, Mr. Robinson, with knowledge and
22 understanding and hopefully with some tools that will help
23 you when you get out and not have you face another court or
24 another judge.

25 With that, if there's nothing further, we are

1 adjourned.

2 MR. HART: Thank you, Your Honor.

3 THE DEFENDANT: Thanks.

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1 C E R T I F I C A T E

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3 I certify that the foregoing is a correct transcript

4 from the record of proceedings in the above-entitled matter.

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6 s:/Angela D. Nixon

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8 Angela D. Nixon, RMR, CRR

Date

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